

# CUPA Corrective Action

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DEH-LWQ

Site Assessment and Mitigation Program

# **Current Corrective Action for Non-UST Sites**

## **Voluntary Assistance Program**

- State Regulations allows DEH-SAM to oversee investigation and mitigation of non-UST related cases.
- This oversight has to be approved by both the RWQCB and DTSC prior to working on case.
- Oversight is Voluntary and if the RP chooses to not follow direction there is no enforcement authority to require compliance.

# Background of New Corrective Action Regulations

- Authority is from H&SC Chapters 6.5 and 6.8
- DTSC has been Developing Proposed Regulations for the past 5 years
- DTSC Requested assistance from the Local Agencies
  - CUPA's
  - LIA's
  - LOP's

# Background of New Corrective Action Regulations (Cont.)

- DTSC held Workshops in 2003 and 2004 for public and agencies input
- Numerous revisions of the regulations has occurred over a period of two years
- Final draft was Released in April 2005
- Expect approved by OAL by mid 2006

# Key Points

- Local agency qualifications.
- Tier I and Tier II qualification
- Tier I represents simple cleanups.
- Tier II includes both simple and complex cleanups

# Qualifications of Oversight Agencies

- Staff must have college or university degrees in Environmental, Biology, Chemical, Physical or Soil Sciences.
- Technical expertise in Hydrogeology, fate and transport, environmental chemistry, toxicology, preliminary endangerment assessment, quality assurance and quality control for analytical results and statistics.

# Tier 1

## Qualifications

### Personnel:

- Related education & 2 years experience
- Related technical expertise

### UPA:

- 2 year generator inspections
- 3 year LOP or doing corrective action

## Sites

- Review Phase I Investigations
- Require, implement and enforce corrective action at less complex sites

# Tier 2

## Qualifications

### Personnel:

- Tier 1 criteria
- Hydrogeologist on staff
- Toxicologist either on staff or on retainer on an as needed basis.

### UPA:

- Tier 1 criteria
- 5 year in LOP or doing corrective action

## Sites

- Tier 1 activities
- Review and provided oversight on Phase II Investigations
- Require, implement and enforce corrective action at any applicable facility



# DEH-SAM

- SAM will be applying for Tier II.
  - This activity is similar to the LOP contract
  - Will need to contract with a toxicologist for Risk Assessments.
- This makes it possible for SAM to require both investigation and remediation of HMD business which are identified as having releases or spills
- Current authority only allows SAM to oversee such activity on a voluntary basis with no enforcement authority.

# Legal Authority

## Health and Safety Code

- Section 25180.
  - Issuance of orders to impose penalties and to correct violations
  - Issuance of orders to require corrective action for releases
- Section 25187.2
  - Allows the UPA's to recover costs for oversight

# What is Next?

- Currently forming a Joint Internal Workgroup between SAM and HMD to establish policies and procedures for referral of sites/business that corrective action will be required.
- Work with County Counsel to make necessary Ordinance revisions covering, cost recovery and enforcement.

# Why is this important?

- Currently HMD regulates 5,000 generator sites.
- It is expect up to 20% of these businesses are either going to be closed or have a release.
- This represents around 1000 sites in San Diego County.
- This oversight work represent activities that would not be part of our current VAP or LOP programs.
- This new oversight work will offset the current LOP shrinking case load and revenues.